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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,057	10/12/2004	Hubert Baumgart	PAT-00293	2264

26922	7590	09/21/2007
BASF CORPORATION		
Patent Department		
1609 BIDDLE AVENUE		
MAIN BUILDING		
WYANDOTTE, MI 48192		

EXAMINER	
CHEUNG, WILLIAM K	

ART UNIT	PAPER NUMBER
1713	

NOTIFICATION DATE	DELIVERY MODE
09/21/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/511,057

Applicant(s)

BAUMGART ET AL.

Examiner

William K. Cheung

Art Unit

1713

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 1-19.  
Claim(s) withdrawn from consideration: none.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
WILLIAM K. CHEUNG  
PRIMARY EXAMINER

Continuation of 3. NOTE: The proposed amendment to the specification introduces new issues or new matters that would require further consideration and/or search by the examiner.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argue that the Voris et al. is not available for rejection under 102(e)-103 rejection set forth in view of the priority document filed October 12, 2004. However, applicants fail to recognize that the priority document of October 12, 2004 must be translated into the English language in order to claim the priority date of April 24, 2002, as argued. Regarding applicants' argument that Voris et al. only teach six possible crosslinks, not all six type of crosslinks in the same composition, applicants fail to recognize that Voris et al. teach six different possible crosslinks, which means that all type of crosslinks are present in the disclosed composition, however, at different amounts. Applicants must recognize that the amount of each type of crosslinks in the disclosed composition would be dependent on the amount of different functional groups available for reaction, the kinetics, and the thermodynamics of the crosslinking reaction under the crosslinking conditions disclosed. That is, the type of crosslinks that is favorable under a particular reaction condition will be at higher percentage as compared to the type of crosslinks that is less favorable under the same reaction or crosslinking condition would be at a lower percentage. Therefore, the rationale set forth for the rejection is proper. Regarding applicants' argument that Voris et al. do not teach "a thixotropic agent", applicants fail to recognize that in view of the substantially identical composition of Voris et al. and the composition as claimed, the examiner has a reasonable basis to believe that the claimed "thixotropic agent" feature is inherently possessed in Voris et al. In view of the reasons set forth above, the 102-3 rejection set forth is maintain.

 9/18/07

WILLIAM K. CHEUNG  
PRIMARY EXAMINER